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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,363	02/13/2004	Dave Procknow	018367-9805-00	7900
23409 7590 11/15/2007 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202			EXAMINER HOOK, JAMES F	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 11/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/779,363

Applicant(s)

PROCKNOW ET AL.

Examiner

James F. Hook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 46-53, 56-65 and 68-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 46-53, 56-65, 68-70, 73, 75, 78, and 79 is/are rejected.
- 7) ☒ Claim(s) 71, 72, 74, 76 and 77 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 46, 48, 50, 53, 56-58, 60, 62, 65, 68, 69, and 73 are rejected under 35 U.S.C. 102(b) as being anticipated by Reed. The patent to Reed discloses the recited tube configured to attach to an engine housing and guide fluid comprising a first component 1 having a bend portion that is a 90 degree sharp bend, and a second component 6 provided in the bend portion to direct flow through the bend where such is seen to have a curved surface thereby forming a ring shape, where the second component extends beyond the bend, the portion as seen in figure 3 allows all the flow to flow between the far outer curved portion of the bend and the second component blade 7 as shown in figure 3, where the additional blades are considered merely additional structure and when using the term comprising the language of the claim is open ended and the reference can contain more structure and still read upon the claimed subject matter, the flow path is seen to be substantially circular, a flange is provided for connection to an intake passage of an internal combustion engine, and where the entire second component is within the first component. The patent to Reed clearly shows an

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edge portion, and the curved ring portion of the second component cooperates with the first portion and the curved out bend surface.

Claims 46, 47, 49, 56-61, 68, 69, 70, 73, 75, 78, and 79 are rejected under 35 U.S.C. 102(b) as being anticipated by Liller. The patent to Liller discloses a flow guide for a pipe where the use of such for various applications is disclosed and the use of such with an engine housing is considered merely intended use where the pipe of Liller is capable of use with an engine and such is only set forth in the preamble and fails to breathe life into the body of the claim comprising, a first component 1 in the form of a pipe with a sharp 90 degree turn forming an inner sharp bend and an outer bend near 12, the bend is spaced away from the inlet and outlet of the pipe, a second component 12 having a rounded shape with a flat surface which form a surface where the second component is seen to be adjacent to the sharp inner bend and cover such, where the outer bend surface cooperates to guide all of the fluid flow through the bend portion, the flow path is substantially circular in cross section, and where the second component is completely within the first component, where the sharp bend forms an edge which is covered by the second element.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 51, 52, 63, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed or Liller. The patents to Liller and Reed disclose all of the recited structure with the exception of what the insert is made from, specifically polyester thermosetting plastic, and forming the two components of the same material. It is considered an obvious choice of mechanical design to form the inserts of any materials capable for use in the system, including the same material, and the use of thermosetting plastics such as polyester are considered merely a choice of mechanical expedients and it would only require routine experimentation to arrive at optimum materials to use for the insert that would be both inexpensive and capable of use in a specific environment so that they can be replaced if necessary as such would only require routine skill in the art to modify the inserts in either Liller or Reed to have thermosetting plastic inserts such as polyester inserts as such would be cheaper to replace and will not deteriorate as fast as metals may when exposed to specific environments.

#### ***Allowable Subject Matter***

Claims 71, 72, 74, 76, and 77 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

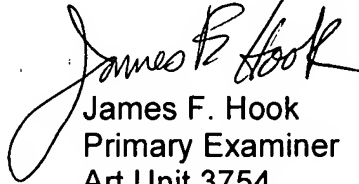
Applicant's arguments filed October 29, 2007 have been fully considered but they are not persuasive. The arguments presented against Cousimano and Jansen are moot in light of the removal of the rejections under these references. With respect to Reed, the end portion 3 of Reed is what is considered the end and second member 6 is spaced therefrom, the second member 6 is what is considered to meet the claim language, with the word comprising used in the claims, the reference to Reed can teach additional structure and still meet the claim language, where all the flow must flow past the ring and would include between at least a portion of the outer curve which is all that is required by the claim, therefore the flow passes between the outer bend and the inner bend at the ring, where such is not required to occur at exactly the same part of the pipe section. With regards to claim 70 such is moot in that this claim has been dropped from the Reed rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
James F. Hook  
Primary Examiner  
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JFH